IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 13679 of 2004

Between:

1. Smt.G.Kathyayani, W/o Dr.Aryasri,Grade I Superintendent,
O/o the Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o 213, 11-4-650, Lakdikapul, Hyderabad –500 004
2. Sri K.Jayachandra, S/o K.Ramulu (Late),Grade I Superintendent,
O/o The Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o H.No.2-1-259, Plot No.31, Mamathanagar,

Nagole X Roads, Hyderabad
3. Smt. K.Bharathi, W/o P.Narsing Rao,Grade I Superintendent,
O/o The Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o H.No.1-4-123, ECIL X Road, Secunderabad. 4. Sri P.Subba Rao, S/o Sri Sathyanarayana (Late) Grade I

Superiontendent, O/o the Chief Commissioner of Land

Administration, Abids, Hyderabad, R/o MC 328, Malakpet

Colony, Hyderabad –500 036.
5. Sri K.Venugopala Rao, S/o Brama Raju,Grade I Superintendent,
O/o The Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o Flat No.103, Ganapathi Complex, Navodaya

Colony, Yousufguda, Hyderabad.
6. Sri KCVK Prasad, S/o Venkanna,Grade I Superintendent, O/o

the Chief Commissioner of Land Administration, Abids,

Hyderabad R/o Plot No.51, Chaitanyanagar, Sagar Road,

Hyderabad-500 079.
7. Smt B.D.Achyutamba, W/o Sri B.S.N.Murthy,Grade I

Superintendent, O/o The Chief Commissioner of Land

Administration, Abids, Hyderabad, R/o Plot No.45, Swarnapuri

Colony, Erragadda, Hyderabad-500 018.
8. St.J.Padmalalitha, W/o Janardhan,Grasde I Superintendent,
O/o The Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o 16-11-144/3, Madhurinagar Colony, Alwal,

Secunderabad-500 015.
9. Smt.Qamar Sultana, W/o Sri Mohd.Hameed, Grade I

Superintendent, O/o the Chief Commissioner of Land

Administration, Abids, Hyderabad, R/o Rahatkadh, 4-21,

Himagiri Nagar Colony, Gandhamguda, Hyderabad.
10. Smt.Safia Sultana, W/o Mushaue Ahmed,Grade I

Superintendent,O/o the Chief Commissioner of Land

Administration, Abids, Hyderabad, R/o 248/3 RT, Vijayanagar

Colony, Hyderabad
11. Sri Ch.Vijaya Rahavan, S/o Rama Rao,Grade I Superintendent,
O/o the Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o Flat No.201, Ratna Classic Apartment, Near

Saibaba temple, Dilsukhnagar, Hyderabad,
12. Sri J.S.H.N.Raju, S/o Sesham Raju, Grade I Superintendant, O/o

the Chief Commissioner of Land Administration, Abids,

Hyderabad, R/o 1-8-1/D2, Baghlingampally, Hyderabad.
13. Sri Shappan Kumar, S/o HK Baruva, O/o the Chief Commissioner

of Land Administration, Abids, Hyderabad
R/o 10-106/A, Vinayakanagar, Balnagar, Hyderabad
1 4. Sri Manjoor Ahmed, O/o the Chief Commissioner of Land

Administration, Abids, Hyderabad, R/o H.No.16-9-438/1/A, Old

Malakpet, Water Tank, Hyderabad

. PETITIONERS.

AND

1. The Government of Andhra Pradesh represented by its Principal Secretary, Revenue
Secrertariat, Hyderabad

2. The Chief Commissioner of Land Administration, Abids, Hyderabad
3. Sri T.Vijay Hanuman Singh, Superintendant, O/o The Chief Commissioner of Land Administration, Abids, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction and more particularly one in the nature of Writ of Mandamus to set aside the Orders contained in the O.A.No.178 of 2000 of Andhra Pradesh Administrative Tribunal as being bad in law, contrary to the Rules governing the seniority apart from being violative of Article 14 and 16 of the Constitution of India and declare the same as void and consequently direct the respondents 1 and 2 not to give effect to the Orders of the Hon'ble Tribunal, pending final disposal of this Writ Petition

Counsel for the Petitioner :MR.R.DILIP KUMAR

Counsel for the Respondent Nos.1 and 2 : GP FOR REVENUE

Counsel for the Respondent No.3 : Mr. KI.G.Krishna Moorthy

The Court made the following :

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ORDER: (Per Honourable Sri Justice G. Bikshapathy)

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1. The Writ Petition is filed assailing the orders passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.178 of 2000, dated 2.6.2004.

2. The matter relates to fixation of seniority when an employee is transferred from one Department to another Department.

3. In the instant case, the unofficial respondents were working in the office of the District Collector, Nizamabad. They sought a transfer to the office of the 2nd

respondent i.e., the Chief Commissioner of Land Administration, Hyderabad. Accordingly their request was accepted and the unofficial respondents were transferred in the year 1978 with the following conditions:

> *"i. That they should take the last rank among the probationers, if any, in the category of Typists in this office.*
>
> *ii. That they should be on probation for a period of 2 years within a continuous period of 3 years in the cadre of Typists."*

However, a modification to the above order was issued to the effect that they will take last rank among the approved probationers. Subsequently when that condition was sought to be cancelled in the year 1990, the said action was challenged in O.A.No.6997/94. The said O.A. was allowed on the ground that there was no opportunity. Accordingly an opportunity was given and again the order was passed on 10-2-1999 confirming the same position. The said order came to be challenged by the unofficial respondents in the present OA. The learned Tribunal, after considering the Rule 16 of A.P. Ministerial Service Rules, set aside the order on the ground that the status as on the date of the transfer has to be protected. But, however, they shall become juniors among their counter parts in the transferee department. Against which the unofficial respondents in the O.A have filed the present Writ Petition.

4. The learned Counsel for the petitioners submit that as the petitioners are probationers as on the date when the unofficial respondents were transferred, they should take last rank among the employees working in the category of Typists and therefore the order of the Tribunal is illegal and contrary to law.

5. This contention was repelled by the Tribunal in its Judgment, which is extracted below:

> *"So, in the circumstances, the impugned order dated 10-2-1999 passed by the 2nd respondent is aside. The respondents are directed to place the applicant immediately below the last person in the list of approved probationers as per the earlier order passed in favour of the applicant in CLR's Ref.No.E1/1515/78,dated 21-1-1980, and on that basis, further promotion should be given to the applicant, and if the applicant is found to be entitled to get further promotion, he is also entitled to get the notional benefits prior to the filing of this petition and monetary benefits subsequent thereto."*

6. We also find from the rule position that the unofficial respondents who were sought to be transferred to the office of the Chief Commissioner of Land Administration, Hyderabad will only become juniors and they should take the last rank from among the Typists of same category viz., if the unofficial respondents were approved probationers, they shall take last rank in the category of the approved probationers and they cannot be expected to take last rank even on temporary basis. The rule position is very clear on this aspect and we do not find any ground to interfere with the order of the Tribunal. Thus, we do not find any merit in the Writ Petition.

7. With observation indicated above, the Writ Petition is dismissed. No costs.

(G. BIKSHASPATHY, J)

(P.S. NARAYANA, J)

Dated 24th November, 2004

Dvs

To

1 The Government of Andhra Pradesh represented by its Principal

Secretary, Revenue, Secrertariat, Hyderabad .
2 The Chief Commissioner of Land Aministration,Abids,Hyderabad.
3. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. Two C.Cs. to the Government Pleader for Services II for R.l and

R.2.

5. Two CD Copies.

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE P.S.NARAYANA

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WRIT PETITION NO : 13679 of 2004

Dated 24th November, 2004